



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2001 Senate Bill 88	Senate Substitute Amendment 1
Memo published: February 25, 2002	Contact: Don Dyke, Senior Staff Attorney (266-0292)

In general, most of the changes made by the substitute amendment to the original bill may be characterized as providing consistency and economy in use of terminology. More specifically, the substitute amendment:

1. On page 1, lines 5 to 10*, makes a distinction between a “nuisance” and a “human health hazard” in s. 254.595 of the current statutes, which provides a procedure for bringing actions to remedy building code violations that concern health or safety or violations of local board of health orders or regulations. Under the substitute amendment, if real property is in violation of municipal building code provisions concerning health or safety, a municipality may commence an action to declare the property a “nuisance.” If real property is in violation of a local board of health order or regulation, a municipality may commence an action to declare the property a “human health hazard.” This appears to more accurately reflect the intent of the supporters of the proposal. In the original proposal, there is no apparent substantive distinction between a nuisance or human health hazard.

As a result of the above change, the substitute amendment makes additional changes to the original bill’s treatment of pertinent provisions of s. 254.595, Stats.

2. On page 4, lines 10 to 12, expands the definition of “abatement” to include the “improvement or correction” of any condition at a residential property that has been adjudicated a nuisance. In the original proposal there is a separate definition of “rehabilitate” and reference to “rehabilitation” throughout the draft. By including the concept of rehabilitation in the definition of “abatement,” the substitute amendment deletes the definition of “rehabilitate” and references to “rehabilitation” and “rehabilitate” in the remainder of the draft.

* Page and line references are to the substitute amendment.

3. On page 4, line 17, defines “nuisance” to include (but not be limited to) a nuisance under s. 254.595, Stats., for purposes of the receivership procedure created by the proposal. (That new receivership procedure also applies to a nuisance under ch. 823, Stats.)
4. On page 6, lines 20 to 24, revises language for greater clarity. Reference is made to the court making a determination as to whether the residential property is a “nuisance” rather than a “threat to public health, safety, or welfare.” Further, reference to the court determining if abatement or rehabilitation is required is eliminated as unnecessary; the substitute amendment simply requires that the court determine the extent of the abatement necessary.
5. On page 8, line 24, adds an omitted reference to “receiver” to reflect that an innocent tenant may make the necessary showings in a court proceeding commenced by a receiver (in addition to a proceeding commenced by the tenant or landlord).

Senate Substitute Amendment 1 was recommended for adoption by the Senate Committee on Universities, Housing, and Government Operations, by a vote of Ayes, 7; Noes, 0.

DD:tlu:wu;rv